Cambodia
2012 Investment Climate Statement
January 2012

Cambodia, a developing country, began the transformation from a command economy to the free market in the late 1980s. It is now integrating into the regional and world trading framework. In 1999, Cambodia joined the Association of Southeast Asian Nations (ASEAN). In September 2004, it became a member of the World Trade Organization (WTO).

Openness to, and restrictions upon, Foreign Investment

Cambodia's 1994 Law on Investment established an open and liberal foreign investment regime. All sectors of the economy are open to foreign investment and 100 percent foreign ownership is permitted in most sectors. In a few sectors, foreign investment is subject to conditions, local equity participation, or prior authorization from authorities. These include the manufacturing of cigarettes, movie production, rice milling, exploitation of gemstones, publishing and printing, radio and television, manufacturing wood and stone carvings, and silk weaving. There is little or no discrimination against foreign investors either at the time of initial investment or after investment. However, some foreign businesses have reported that they are at a disadvantage vis-a-vis Cambodian or other foreign rivals, who engage in acts of corruption or tax evasion or take advantage of Cambodia's poor enforcement of legal regulations.

Rankings

The following table lists Cambodia's most recent rankings by organizations that monitor economies' economic freedom, business regulations, and perceived level of corruption.

Measure	**Year**	**Index/Ranking**
TI Corruption Index	2011	164/ 183
Heritage Economic Freedom	2011	57.9/179
World Bank Doing Business	2012	138/183
MCC Govt Effectiveness	2011	0.16/60 percent
MCC Rule of Law	2011	-0.12/42 percent
MCC Control Corruption	2011	-0.41/21 percent
MCC Fiscal Policy	2011	-0.8/77 percent
MCC Trade Policy	2011	70.0/58 percent
MCC Regulatory Quality	2011	0.32/76 percent
MCC Business Start Up	2011	0.852/17 percent
MCC Land Rights Access	2011	0.642/62 percent
MCC Natural Resource Mgmt	2011	67.52/66 percent

Conversion and Transfer Policies

There are no restrictions on the conversion of capital for investors. The Foreign Exchange Law allows the National Bank of Cambodia (NBC) to implement exchange controls in the event of a foreign exchange crisis. In the event of such a crisis, the NBC may issue regulations to be implemented for a maximum period of three months, imposing certain temporary restrictions on the activity of authorized intermediaries, or their foreign exchange position, or any loans in domestic currency extended to nonresidents. The Department of State is not aware of any cases in which investors have encountered obstacles in converting local to foreign currency or in sending capital out of the country.

Expropriation and Compensation

Land rights are a contentious issue in Cambodia, complicated by the fact that most property holders do not have legal documentation of their ownership rights as a result of the Khmer Rouge era. Numerous cases have been reported of influential individuals or groups acquiring land titles or concessions through political and/or financial connections, and then using strong arm measures to displace communities to make way for commercial enterprises. In late 2009, the National Assembly approved the Law on Expropriation which sets broad guidelines on land-taking procedures for public interest purposes. It defines public interest activities to include construction of infrastructure projects, development of buildings for national protection and civil security, construction of facilities for research and exploitation of natural resources, and construction of oil pipeline and gas networks. Property can also be expropriated for natural disasters and emergencies, as determined by the government. Legal procedures regarding compensation and appeals are expected to be established in a forthcoming sub-decree. The Department of State is not aware of any cases in which Cambodia has expropriated a U.S. investment.

Dispute Settlement

American investors are generally reluctant to resort to the Cambodian judicial system to resolve commercial disputes because the courts are perceived as unreliable and susceptible to external political and commercial influence. The local and foreign business community reports frequent problems with inconsistent judicial rulings, corruption, and difficulty enforcing judgments. For these reasons, most commercial disputes are currently resolved by negotiations facilitated by the Ministry of Commerce, the Cambodian Chamber of Commerce, and other concerned institutions. Cambodia adopted a Commercial Arbitration Law in 2006. In 2010, the government established the National Arbitration Center, Cambodia's first alternative dispute resolution mechanism, to enable companies to resolve commercial disputes more quickly and inexpensively than through the court system. However, official operation of the center has been delayed until early 2012. Commercial disputes can also be resolved through international arbitration. In 2009, the World Bank's International Center for the Settlement of Investment Disputes (ICSID) approved a U.S. investor's Request for Arbitration in a case against the Kingdom of Cambodia; the case is ongoing.

Performance Requirements and Incentives

In 2003, Cambodia amended its Law on Investment. The amended law creates regimes for profit (20 percent), salary (5 to 20 percent), withholding (4 to 15 percent), value-added (10 percent) and excise taxes (rates vary). While some incentives have been eliminated, the law provides a simplified, more transparent, and faster mechanism for investment approval. Investors who wish to take advantage of investment incentives must submit an application to the Cambodian Investment Board (CIB), the division of the Council for the Development of Cambodia (CDC) charged with reviewing investment applications. The September 2005 Sub-Decree on the Implementation of the Amendment to the Law on Investment details investment activities that are excluded from incentives. They include the following sectors: retail, wholesale, and duty-free stores; entertainment (including restaurants, bars, nightclubs, massage parlors, and casinos); tourism service providers; currency and financial services; press and media related activities; professional services; and production and processing of tobacco and wood products. Incentives are also excluded in the production of certain products with an investment of less than USD 500,000 such as food and beverages; textiles, garments and footwear; and plastic, rubber, and paper products. The sub-decree does not require investors to place a deposit guaranteeing their investment except in cases in which the deposit is required in a concession contract or real estate development project. Investors who wish to apply are required to pay an application fee of seven million riel (approx. USD 1,750) representing the administration fees for securing the approvals, authorizations, licenses, or registrations from all relevant ministries and entities including stamp duty. Under a 2008 sub-decree, the CDC is required to submit to the Council of Ministers for approval investment proposals with an investment capital of USD 50 million or more; involve politically sensitive issues; involve the exploration and the exploitation of mineral or natural resources; may have a negative impact on the environment; have long-term strategy; or, involve infrastructure concessions.

Right to Private Ownership and Establishment

There are no limits on the rights of foreign and domestic entities to establish and own business enterprises or to compete with public enterprises. However, only Cambodian citizens or legal entities have the right to own land. Under the 2001 Land Law, foreign investors may secure control over land through concessions, long-term leases, or renewable short-term leases. Qualified investors approved by the CDC have the right to own buildings built on leased property. However, the law is unclear as to whether buildings from qualified projects can be transferred between foreign investors or whether foreign investors can own buildings built through projects not approved by the CDC. In 2010, Cambodia adopted a law allowing limited foreign ownership in multi-story buildings from the second floor up, such that ownership may not exceed 70 percent of the area size of all private units of the co-owned building. Foreigners are not authorized to acquire ownership rights in buildings located within 30 kilometers of the land borders of Cambodia except in Special Economic Zones and in other areas, as determined by the government.

Protection of Property Rights

Cambodia has adopted legislation concerning the protection of property rights, including the Land Law, the Law on Copyrights, and the Law on Patent and Industrial Design. Cambodia is a member of the World Intellectual Property Organization (WIPO) and the Paris Convention for the Protection of Industrial Property. Cambodia is a party to the ASEAN Framework Agreement on Intellectual Property Cooperation. Cambodia has also concluded bilateral agreements on intellectual property protection and cooperation with the United States and Thailand.

Chattel and Real Property: The 2001 Land Law provides a framework for real property security and a system for recording titles and ownership. Land titles issued prior to the end of the Khmer Rouge regime in 1979 are not recognized due to the severe dislocations that occurred during the Khmer Rouge period. The government is making efforts to accelerate the issuance of land titles, but in practice, the titling system is cumbersome, expensive, and subject to corruption. The majority of property owners lack documentation proving ownership. Even where title records exist, recognition of legal title to land has been a problem in some court cases in which judges have sought additional proof of ownership. Although foreigners are constitutionally forbidden to own land, the 2001 law allows long- or short-term leases to foreigners.

Intellectual Property Rights (IPR): Cambodia's IPR legal regime is in compliance with its WTO member commitments. Copyrights are governed by the Law on Copyrights and Related Rights, which was enacted in January 2003. Trademarks are governed by the Law Concerning Marks, Trade Names and Acts of Unfair Competition, which was enacted in 2002. A patent law was enacted in 2003. The Ministry of Commerce is preparing a draft law for trade secrets while the Ministry of Industry, Mines, and Energy is drafting a law on integrated circuit protection. Cambodia has not yet made significant progress toward enacting required legislation on encrypted satellite signals, although it obtained a model law on encrypted satellite signals and semiconductor layout designs from WIPO in March 1999. Infringement of IPR is pervasive, ranging from software, compact discs and music, to photocopied books and the sale of counterfeit products, including cigarettes, alcohol, and pharmaceuticals. In 2008, the Business Software Alliance estimated a 95 percent software piracy rate in Cambodia which cost the industry USD 47 million in 2007. Although Cambodia is not a major center for the production and export of pirated CDs, videos, and other copyrighted materials, local businesses report Cambodia is becoming an increasingly popular source of pirated material due to weak enforcement. An inter-ministerial committee was established to combat piracy of VCDs and DVDs in the domestic market. Infringement complaints may be made to the Economic Police, Customs, CamControl, or the Ministry of Commerce. However, the division of responsibility among each agency has not been clearly defined. The National IPR Committee has tasked its Sub-Committee on Enforcement to address this issue.

Transparency of the Regulatory System

There is no pattern of discrimination against foreign investors in Cambodia through a regulatory regime. Numerous issues of transparency in the regulatory regime arise, however, from the lack of legislation and the weakness of key institutions. Investors often complain that the decisions of Cambodian regulatory agencies are inconsistent, irrational, or corrupt. Cambodia currently has no anti-monopoly or anti-trust statutes. On a practical level, Cambodia has indicated a desire to discourage monopolistic trading arrangements in most sectors.

Efficient Capital Markets and Portfolio Investment

The Cambodian government does not use regulation of capital markets to restrict foreign investment. Domestic financing is difficult to obtain at competitive interest rates. Banks have been free to set their own interest rates since 1995. The average annual interest rate on loans stood at 14.87 percent by September 2011. A law addressing secured transactions, which includes a system for registering such secured interests, was promulgated in May 2007. Most loans are secured by real property mortgages or deposits of cash or other liquid assets, as provided for in the existing contract law and land law. Overall bank lending increased by 26.7 percent in 2010 to USD 3.18 billion. The ratio of non-performing loans dropped to 3 percent at the end of 2010, compared to 6 percent in 2009. Complete figures for 2011 are not yet available. In January 2008, Cambodia's banks were given their first-ever risk assessment from Standard & Poor's of a "B+/B" rating with stable outlook. Their placement was alongside that of banks in Venezuela, Bolivia, Ukraine, and Jamaica. In 2008, the NBC raised the minimum capital reserve requirements for banks from USD 13 million to USD 37.5 million. By the end of 2011, the banking system in Cambodia consisted of 33 commercial banks, 6 specialized banks (banks set up to finance specific turn-key projects such as real estate development), 27 licensed microfinance institutions, of which 7 were licensed microfinance deposit taking institutions, and 28 registered rural credit operators. Total assets in the banking system grew by 28 percent in 2010 reaching USD 6.3 billion, an equivalent of 56% to GDP. Such growth was largely due to the capital of new entrant banks and additional customer deposits. Cambodia is moving to address the need for capital markets. The Cambodian Securities Exchange launched in July 11, 2011. Three state-owned enterprises -- the Autonomous Port of Sihanoukville, Telecom Cambodia, and the Phnom Penh Water Supply Authority -- are preparing for initial public offerings but trading is not expected until 2012. In November 2006, the National Assembly passed legislation to permit the government to issue bonds and use the capital to make up budget deficits. However no bonds have been issued since 2007 and Prime Minister Hun Sen said in 2008 that the government does not plan to issue bonds in the near future. In 2007, the government also passed the Law on the Issuance and Trading of Non-government Securities.

Competition from State Owned Enterprises

Cambodia has several state-owned enterprises and two joint-venture enterprises with a majority state holding. These include seven rubber plantations; the Agricultural Inputs Company which is engaged in the importation, purchase and sale of agricultural products; the Green Trade Company which manages Cambodia's national reserve of rice through purchases and sales made at market prices; infrastructure operating companies such as the Phnom Penh Water Supply, the Electricity Authority of Cambodia, the Rural Development Bank; and two joint-venture companies – telecommunication operator Camintel and the Cambodian Pharmaceutical Enterprise. Currently, the country does not have a sovereign wealth fund. Each SOE is under the supervision of a line ministry or government institution and is overseen by a board of directors drawn from among senior government officials. Private enterprises are generally allowed to compete with public enterprises under the same terms and conditions. Cambodia has yet to pass the Law on Competition as part of its WTO accession obligations. Under the draft law, a National Committee on Competition will be established.

Corporate Social Responsibility

Corporate social responsibility (CSR) is a new concept to Cambodia and is not widely understood among local producers or consumers. However, certain labor and social standards have been established in key industries, particularly in the garment sector. Under the terms of the 1999 U.S.-Cambodia Trade Agreement, the U.S. government committed to increase the size of

Cambodia's garment export quota if the country demonstrated improvements in labor standards. This was the first bilateral trade agreement to positively link market access with progress in compliance with labor obligations. Currently labor standard monitoring in the garment sector is conducted by the International Labour Office (ILO) in coordination with the government. The ILO project succeeded in improving compliance with labor standards, virtually eliminating the worst labor abuses such as forced labor and child labor within the garment sector. Socially responsible businesses continue to source garments from Cambodia due to its well-deserved reputation for high labor standards.   Currently, the ILO's Better Work and Better Factories Cambodia program is developing a training package on planning and implementing the transition of the inspections regime towards substantial compliance with international labor standards such as the OECD Guidelines for Multinational Enterprises. In addition, several multinational enterprises conduct CSR programs in Cambodia that are viewed favorably by the local community.

Political Violence

The risk of political violence directed at foreign companies operating in Cambodia is small. Some violent protests have occurred in the past, such as anti-Thai riots in 2003 against the Embassy of Thailand and Thai-owned commercial establishments. However, the Department of State is unaware of any recent incidents directed at American or other Western interests.

Corruption

Business people, both local and foreign, have identified corruption, particularly within the judiciary, as the single biggest deterrent to investment in Cambodia. Corruption was cited by a plurality of respondents to the World Economic Forum survey as the most problematic factor for doing business in Cambodia. Public sector salaries range from USD 25-60 per month for working level officials. Although there is an annual salary increase of 10-15 percent, these wages are far below the level required to maintain a suitable quality of life in Cambodia, and as a result, public employees are susceptible to corruption and conflicts of interest. Local and foreign businesses report that they must often pay extra facilitation fees to expedite any business transaction. Additionally, for those seeking to enter the Cambodian market, the process for awarding government contracts is not transparent and is subject to significant irregularities. The Anti-corruption Law was adopted in 2010 with the objective to combat corruption through education, prevention, and law enforcement with public participation and support and international cooperation. Under the new law, all civil servants are obligated to declare their financial assets to the government every two years. The newly formed Anti-Corruption Unit launched several high-profile prosecutions against public officials, including members of the judiciary, in 2011.

Bilateral Investment Agreements

Cambodia has signed bilateral investment agreements with Australia, China, Croatia, Cuba, the Czech Republic, France, Germany, Indonesia, Kuwait, Japan, Laos, Malaysia, the Netherlands, North Korea, the Organization of the Petroleum Exporting Countries (OPEC), Pakistan, the Philippines, Singapore, South Korea, Switzerland, Thailand, and Vietnam. Future agreements with Algeria, Bulgaria, Burma, Egypt, Hungary, Libya, Malta, Qatar, Russia, the United Kingdom, and Ukraine are planned. The agreements provide reciprocal national treatment to investors, excluding benefits deriving from membership in future customs unions or free trade areas and agreements relating to taxation. The agreements preclude expropriations except those that are undertaken for a lawful or public purpose, are non-discriminatory, and are accompanied by prompt, adequate and effective compensation at the fair market value of the property prior to expropriation. The agreements also guarantee repatriation of investments and provide for settlement of investment disputes via arbitration. In July 2006, Cambodia signed a Trade and Investment Framework Agreement (TIFA) with the United States to promote greater trade and investment in both countries and provide a forum to address bilateral trade and investment issues.

OPIC and Other Investment Insurance Programs

Cambodia is eligible for the Quick Cover Program under which the Overseas Private Investment Corporation (OPIC) offers financing and political risk insurance coverage for projects on an expedited basis. With most investment contracts written in U.S. dollars, there is little exchange risk. Even for riel-denominated transactions, there is only one exchange rate, which is fairly stable. Cambodia is a member of the Multilateral Investment Guarantee Agency (MIGA) of the World Bank, which offers political-risk insurance to foreign investors. The Export-Import Bank of the United States (Ex-Im Bank) provides financing for purchases of U.S. exports by private-sector buyers in Cambodia on repayment terms of up to seven years. Ex-Im Bank support typically will be limited to transactions with a commercial bank functioning as an obligor or guarantor; however, it will consider transactions without a bank undertaking on a case-by-case basis.

Labor

Approximately 65 - 70 percent of the labor force is engaged in subsistence agriculture. Around 300,000 people, the majority of whom are women, are employed in the garment sector. An additional 300,000 Cambodians are employed in the tourism sector, and a further 50,000 people in construction. The economy is not able to generate enough jobs in the formal sector to handle the large number of entrants to the job market. This dilemma is likely to become more pronounced over the next decade since Cambodia suffers from a large demographic imbalance. According to the 2008 General Population Census of Cambodia, Cambodia's annual population growth rate is 1.54 percent. Over 70 percent of the population is under the age of 30. As a result, over the next decade at least 275,000 new job seekers will enter the labor market each year. Given the severe disruption to the Cambodian education system and loss of skilled Cambodians during the 1975-79 Khmer Rouge period, workers with higher education or specialized skills are few and in high demand. The Cambodia Socio-Economic Survey conducted in 2004 found that about 12 percent of the labor force had completed at least an elementary education. Only 1.2 percent of the labor force hadcompleted post-secondary education. The 2009-2010 Global Competitiveness Report of the World Economic Forum identified an inadequately educated workforce as one of the most serious problems in doing business in Cambodia.

Cambodia's 1997 Labor Code protects the right of association and the rights to organize and bargain collectively. The code prohibits forced or compulsory labor, establishes 15 as the minimum allowable age for paid work, and 18 as the minimum age for anyone engaged in work that is hazardous, unhealthy or unsafe. The statute also guarantees an eight-hour workday and 48-hour work week, and provides for time-and-a-half pay for overtime or work on the employee's day off. As of October 2010, the minimum wage for garment and footwear workers was officially set at USD 61 per month. In November 2011, to help workers meet basic needs like health care, the government awarded a USD 5 per month pay raise starting in January 2012, thus bringing the minimum monthly wage up to USD 66. There is no minimum wage for any other industry. To increase competitiveness of garment manufacturers, the labor code was amended in 2007 to establish a night shift wage of 130 percent of daytime wages.

Enforcement of many aspects of the labor code is poor, albeit improving. Labor disputes can be problematic and may involve workers simply demanding conditions to which they are legally entitled. Collective labor disputes between employers and employees could be resolved through conciliation and arbitration by the arbitration council which is an independent, national institution with quasi-judicial authority derived from Cambodian labor law. The U.S. government, the ILO, and others are working closely with Cambodia to improve enforcement of the labor code and workers' rights in general. The U.S.-Cambodia Bilateral Textile Agreement linked Cambodian compliance with internationally recognized core labor standards with the level of textile quota the United States granted to Cambodia. While the quota regime ended on January 1, 2005, a "Better Factories" program continues to build on the labor standards established.

Foreign Trade Zones/Free Trade Zones

To facilitate the country's development, the Cambodian government has shown great interest in increasing exports via geographically defined special economic zones (SEZs), with the goal of attracting much-needed foreign direct investment. The government adopted the Sub-Decree on Special Economic Zones which define SEZs and establishes the rules under which they operate. In late December 2005, the Council of Ministers passed the Sub-Decree on Establishment and Management of Special Economic Zones to speed up the creation of the zones. The sub-decree details procedures, conditions and incentives for the investors in the zone. Since issuing the sub-decree, the Cambodia Special Economic Zones Board (CSEZB) had approved 22 SEZs by the end of 2011, of which 14 were established and five are in operation, located near the borders of Thailand and Vietnam, and in Phnom Penh, Kampot, and Sihanoukville. Main sectors of investment include garments, shoes, bicycles, food processing, and electrical equipment industries.

Foreign Direct Investment Statistics

Foreign direct investment (FDI) registered capital into Cambodia has been modest since 1998, with an average inflow of USD 180 million in the period 1998-2010. The FDI registered capital figures probably understate actual investment, since they report only registered capital and not fixed assets. CDC statistics for fixed assets, however, are based on projections, and the CDC has no effective monitoring mechanism to determine the veracity of the numbers. By October 2011, investment was concentrated in the following sectors: agriculture (46.89 percent), garment factories (32 percent), tourism (5.13 percent), mining (3.52 percent) and telecommunication (0.29 percent).

Figures from the CDC for registered capital of approved projects, including domestic investment, and broken down by country of origin and economic sector, are provided below. The FDI registered capital figures below may overstate investment because they include projects that have not yet been, or may never be, fully implemented, and retention of dormant or defunct projects from earlier years makes the investment figures appear higher.

Total Cumulative Registered Investment Projects, by Country of Origin
August 1994 to October 2011 (Source: CDC)

Countries	**USD million**	**Pct**
Malaysia	1,605.7	26.76
Cambodia	1,605.1	26.75
China	680.9	11.35
Taiwan	471.0	7.85
Vietnam	259.5	4.33
Korea	225.0	3.75
Thailand	218.9	3.65
Singapore	207.0	3.45
Hong Kong	152.3	2.54
United Kingdom	128.1	2.14
United States	77.4	1.29
Canada	65.3	1.09
Australia	57.6	0.96
Indonesia	55.7	0.93
Others	190.5	3.18
Total	**6,000.1**	**100**

The CDC has registered approximately USD 77.4 million in U.S. investment since August 1994. Caltex has a nationwide chain of service stations and a petroleum holding facility in Sihanoukville; Crown Beverage Cans Cambodia Limited, a part of Crown Holdings Inc., produces aluminum cans; GE Health Care and GE Consumer and Industrial have local distributors, and Chevron is actively exploring offshore petroleum deposits. W2E Siang Phong Co., Ltd., a joint venture between U.S. and Dutch investors, invested in biogas power generation. There are also U.S. investors in a number of Cambodia's garment factories. In 2008, several Cambodia-focused private equity funds emerged seeking to raise between USD 100 million and USD 500 million each for investments in infrastructure, agriculture, tourism, and real estate development, among other sectors. However, it appears the global economic slowdown is limiting fundraising success and widespread investments by these funds have not yet materialized.

Major non-U.S. foreign investors include Asia Pacific Breweries (Singapore), Asia Insurance (Hong Kong), ANZ Bank (Australia), BHP Billiton (Australia), Oxiana (Australia), Infinity Financial Solutions (Malaysia), Total (France), Cambodia Airport Management Services

(CAMS) (France), Smart Mobil Phone (Malaysia), Shinawatra Mobile Phone (Singapore), Thakral Cambodia Industries (Singapore), Petronas Cambodia (Malaysia), Charoeun Pokphand (Thailand), Siam Cement (Thailand), Bank of China (China), and Cambrew (Malaysia).
Since 2007, several well known U.S. companies opened or upgraded their presence in Cambodia. General Electric and DuPont have representative offices. Otis Elevators, a division of United Technologies, also upgraded to a branch office, and Microsoft initiated a presence through its Market Development Program.

Some major local companies and their sectors are: Sokimex Group (petroleum, tourism, garments), Royal Group of Companies (telecommunication and information technology, banking and insurance, media and entertainment, hotel and resort, properties and development, trading, transportation), AZ Distribution (construction, telecommunication), Mong Rethy Groups (construction, agro-industry, rubber and palm oil plantations), KT Pacific Group (airport project, construction, tobacco, food and electronics distribution), Hero King (cigarettes, casinos and power), Anco Brothers (cigarettes, casinos and power), Canadia Bank (banking and real estate), Acleda Bank (microfinance), and Men Sarun Import and Export (agro-industry, rice and rubber export). In 2009 Acleda Bank opened its first bank branch outside of Cambodia in Laos and has announced plans for further expansion into Vietnam and China. Statistics on Cambodian investment overseas are not available, but such investments are likely minimal.